



ATTORNEY DOCKET NO. 1671-0003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark J. Weiser

RECEIVED

Serial No.: 09/773,756

MAR 13 2003

Filed: February 1, 2001

OFFICE OF PETITIONS

For: **ANIMAL SCENT BASED REPELLANT AND ATTRACTANT COMPOSITIONS**

Group Art Unit: 1651

Examiner: Susan Coe

Assistant Commissioner for Patents

Attention: Office of Petitioner

Box DAC

Washington, D.C. 20231

DECLARATION OF MARK J. WEISER

1. I am the sole inventor of United States Patent Application Serial No. 09/773,756.

2. This declaration is submitted in support of the Petition for Revival of Unintentionally Abandoned Application under 35 C.F.R. § 137(b) (the "Petition").

3. When the present application was filed, I was represented by John P. Halvonik. During the period between June 20, 2001 and July 17, 2001, I ceased to be represented by Attorney Halvonik and appointed George C. Atwell as new counsel to represent me in connection with the present application.

4. On July 17, 2001, Attorney Atwell filed a Submission of New Power of Attorney and Election of Claims in which the claims identified by the Examiner as

Group I in an Office Action dated June 20, 2001, were elected for prosecution (the "July 17 Reply").

5. In January of 2003, after repeated attempts to contact Attorney Atwell to discuss the present application were not successful, I retained Metz Lewis LLC and attorneys Barry Friedman and Philip Levy to assume prosecution of the present application.

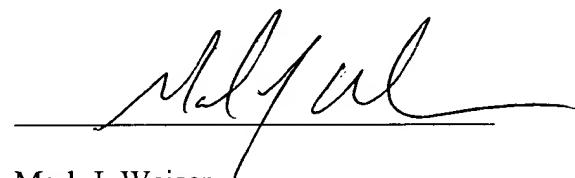
6. At my request and with my authorization, Attorney Levy obtained a copy of the Patent and Trademark Office file for the present application. Attorney Levy informed me that, on August 6, 2001, the Patent and Trademark Office had sent a notice to Attorney Atwell indicating that the July 17 Reply was not fully responsive to the prior Office Action and that one (1) month had been given to correct same (the "August 6 Notice"). Attorney Levy also informed me that because no reply to the August 6 Notice had been filed, the Patent and Trademark Office mailed a Notice of Abandonment on February 20, 2002, indicating that the present application had been abandoned.

7. My conversation with Attorney Levy was the first time that I had been informed of the August 6 Notice, the requirement to reply within one (1) month thereof, and the abandonment of the present application. I never received a copy of the August 6 Notice or the Notice of Abandonment from Attorney Atwell.

8. I never had any desire or intention to abandon the present application. The entire delay from the date on which a response to the August 6 Notice was due until the filing of the Petition was unintentional. Upon learning of the facts leading to the abandonment of the present application, I immediately requested that Attorney Levy prepare and file the Petition.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the present application or any patent that issues thereon.

Date: 1-30-03



Mark J. Weiser